

OFFICE OF CLERK OF COURTS
COUNTY OF PLYMOUTH
72 Belmont Street
Brockton, Mass. 02401

FILED
IN CLERKS OFFICE

2003 DEC 30 A 10: 23

U.S. DISTRICT COURT
DISTRICT OF MASS.

BILL TO: Al Harmon ESq
Robinson & Cole LLP
1 Boston Place
Boston, MA 02108

\$15.50

Dkt# 03-1319A
Tracy A. Smith
vs
Untied Rentals Inc.
for copies

MAS-20031124
eliasrebCommonwealth of Massachusetts
PLYMOUTH SUPERIOR COURT
Case Summary
Civil Docket12/22/2003
12:07 PMPLCV2003-01319
Smith v United Rentals Inc

File Date	11/07/2003	Status	Disposed: transfered to other court (dtrans)
Status Date	12/17/2003	Session	A - Civil A - CtRm 4 (Brockton)
Origin	1	Case Type	B22 - Employment Discrimination
Lead Case		Track	F

Service	02/05/2004	Answer	04/05/2004	Rule 12/19/20	04/05/2004
Rule 15	04/05/2004	Discovery	09/02/2004	Rule 56	10/02/2004
Final PTC	11/01/2004	Disposition	12/31/2004	Jury Trial	Yes

PARTIES

Plaintiff
Tracy A. Smith
Active 11/07/2003

Private Counsel 070620
Kevin B Callanan
17 Accord Park Drive
Suite 101
Norwell, MA 02061
Phone: 781-878-1604
Fax: 781-878-3154
Active 11/07/2003 Notify

Defendant
United Rentals Inc
30 Independence Road
Kingston, MA 02364
Served: 11/17/2003
Served (answr pending) 11/24/2003

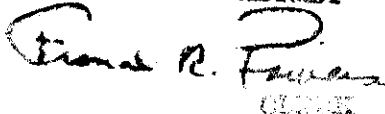
Private Counsel 655832
Al Harmon
Robinson & Cole LLP
1 Boston Place
Boston, MA 02108
Phone: 617-557-5900
Fax: 617-557-5999
Active 12/22/2003 Notify

ENTRIES

Date	Paper	Text
11/07/2003	1.0	Complaint & civil action cover sheet filed
11/07/2003		Origin 1, Type B22, Track F.
11/24/2003	2.0	SERVICE RETURNED: United Rentals Inc(Defendant)summons by delivering in hand to Steve McCormack agent in charge at time of service
12/17/2003	3.0	Case REMOVED this date to US District Court of Massachusetts by defendant

EVENTS

A TRUE COPY ATTEST



THOMAS R. FAWCETT

COMMONWEALTH OF MASSACHUSETTS

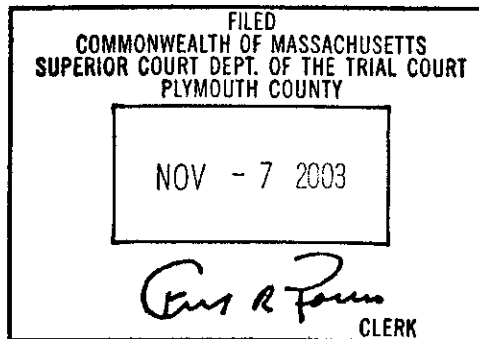
PLYMOUTH, SS,

SUPERIOR COURT
Civil Action No. 03-1319-A

TRACY A. SMITH,
Plaintiff,

v.

UNITED RENTALS, INC.,
Defendant



COMPLAINT AND JURY DEMAND

Preliminary Statement

1. This is an employment discrimination action under General Laws, Chapter 151B and Chapter 214, Section 1C seeking compensatory and punitive damages against the defendant for sexual harassment and retaliation.

Jurisdiction

2. This action is brought under General Laws, Chapter 151B, Section 9 and Chapter 214, Section 1C.

3. Plaintiff filed a timely complaint against the defendant with the Massachusetts Commission Against Discrimination (MCAD Docket No. 03-BEM-00195) and has met all administrative prerequisites for bringing this action.

Venue

4. This action properly lies in this Court because the claims arose in Plymouth County, where the plaintiff was employed by the defendant.

A TRUE COPY ATTEST
Eric R. Fournier
CLERK

Parties

5. Plaintiff, Tracy A. Smith ("Smith"), is an adult female, who resides at 33 Mayflower Street, Plymouth, Plymouth County, Massachusetts.

6. Defendant, United Rentals, Inc. ("United"), is a foreign corporation authorized to do business in Massachusetts with principal offices at 30 Independence Road, Kingston, Plymouth County, Massachusetts.

Facts

7. United operated a business employing 30 or more employees at 30 Independence Road, Kingston, Massachusetts at all times relevant to this action.

8. Smith was employed by United as an administrative assistant at its offices in Kingston from March 18, 2002 until October 7, 2002.

9. Owen was paid an hourly wage of \$13.00 by United.

10. During her employment with United, Smith's work performance was satisfactory at all times.

11. Mr. Chip Locketti ("Locketti"), a rental manager, was one of Smith's supervisors at United.

12. After working with Smith for some time, Locketti told her they could not work together because he had strong personal feelings toward her.

13. Locketti became jealous and upset when Smith talked with other male employees at work.

14. On one occasion Locketti sent Smith home early from work after seeing her talking with a male employee in the sign shop.

15. Locketti attempted to have Smith laid-off by United so she would leave work and collect unemployment.

16. Locketti's conduct toward Smith was unwelcome and interfered with her ability to perform her job as administrative assistant.

17. On or about August 5, 2002, Smith found a four-page, handwritten, love letter from Locketti on her chair at work.

18. Smith was upset by Locketti's letter and gave it to Lori Watson, human resources supervisor, and informed her of Locketti's behavior.

19. A few days later, Smith was called to a meeting with United's general manager, Craig A. Schmidt ("Schmidt"), who said he would investigate Locketti's letter and behavior and told Smith to take the next day off with pay.

20. When Smith returned to work, Schmidt told her to work temporarily in the sales office upstairs from Locketti's office and near Schmidt's office.

21. A few days later, Smith met with Schmidt and Steven Oddo ("Oddo"), regional human resources manager, who said he read Locketti's letter and was investigating the matter.

22. Oddo gave Smith a copy of United's sexual harassment policy and told Smith he was going to talk with Locketti.

23. On or about October 3, 2002, Schmidt told Smith to move across the office to a desk located directly outside of his office.

24. On or about October 7, 2002, Smith was called to a conference room where Diana Mendes ("Mendes"), an estimator, told Smith that Smith's employment with United was being terminated effective immediately.

25. Mendes told Smith she was terminated for discussing confidential information in the office.

26. The reason given by Mendes for Smith's termination was a pretext for the real reason, which was Smith's complaints to United about Locketti's sexual harassment of Smith.

COUNT I

(Violation of Chapter 151B, Sec. 16A against United)

27. Smith hereby incorporates, as if re-alleged, paragraphs 1 through 26 above.

28. By and through the conduct of Locketti, its agent, United engaged in sexual harassment of Smith in violation of Chapter 151B, Section 16A.

COUNT II

(Violation of Chapter 214, Sec. 1C against United)

29. Smith hereby incorporates, as if re-alleged, paragraphs 1 through 28 above.

30. By and through the conduct of Locketti, its agent, United engaged in sexual harassment of Smith in violation of Chapter 214, Section 1C.

COUNT III

(Violation of Chapter 151, Section 4(4) and 4(4A) against United)

31. Smith hereby incorporates, as if re-alleged, paragraphs 1 through 28 above.

32. By its conduct in discharging Smith from employment, United retaliated against Smith for complaining about sexual harassment in violation of

Chapter 151B, Sections 4(4) and 4(4A).

Prayer For Relief

33. Wherefore, Smith, prays that this Court:

(a) declare the conduct of United to be in violation of the Smith's rights under Chapter 151B;

(b) declare the conduct of United to be in violation of Chapter 214, Section 1C.

(c) award Smith the following damages:

- (i) compensatory and punitive damages for emotional distress;
- (ii) award Smith her costs and attorney's fees; and
- (iii) grant such other relief as the Court may deem just.

Jury Demand

34. Smith demands a jury to try all claims triable by a jury.

Respectfully submitted,

TRACY A. SMITH

By her attorney,



Kevin B. Callanan, BBO #070620
Law Office of Kevin B. Callanan
17 Accord Park Drive, Suite 101
Norwell, Massachusetts 02061
781-878-1604

Dated: November 4, 2003

**CIVIL ACTION
COVER SHEET**

**Trial Court of Massachusetts
Superior Court Department**
County: Plymouth



PLAINTIFF(S)

TRACY A. SMITH

DEFENDANT(S)

UNITED RENTALS, INC.

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

Kevin B. Callanan

17 Accord Park Drive - Ste. 101

Norwell, MA 02061

Board of Bar Overseers number: 070620

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

☒ 1. F01 Original Complaint

☐ 2. F02 Removal to Sup.Ct. C.231,s.104
(Before trial) (F)

☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

☐ 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X)

☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)

☐ 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B22

Employment

Discrimination

(F)

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses \$
2. Total Doctor expenses \$
3. Total chiropractic expenses \$
4. Total physical therapy expenses \$
5. Total other expenses (describe) \$

Subtotal \$

B. Documented lost wages and compensation to date approximately \$ 42,000.00.

C. Documented property damages to date \$

D. Reasonably anticipated future medical and hospital expenses \$

E. Reasonably anticipated lost wages \$

F. Other documented items of damages (describe) \$

emotional stress, attorney's fees and costs approximately \$ 50,000.00.

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

\$

TOTAL \$ 92,000.00.

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

This is a claim for employment discrimination and retaliation in violation of G.L. c. 151B and c. 214, sec. 1C. Damages include loss of pay and employee benefits, emotional distress, punitive damages, attorney's fees and costs.

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record Kevin B. Callanan

DATE: 11-04-03

KEVIN B. CALLANAN

ATTORNEY AT LAW

17 ACCORD PARK DRIVE
SUITE 101
NORWELL, MASSACHUSETTS 02061

(781) 878-1604
FAX (781) 878-3154
e-mail: kbcallanan@msn.com

November 6, 2003

Francis R. Powers, Clerk of Courts
Plymouth County Superior Court
72 Belmont Street
Brockton, Massachusetts 02301

Re: Tracy A. Smith v. United Rentals, Inc.
Plymouth Superior Court – Civil Action No.

Dear Mr. Powers:

Enclosed for filing with the Court, please find the following documents:

1. Complaint and Jury Demand.
2. Civil Action Cover Sheet

Also, enclosed is my check for the filing fee in the amount of \$275.00.

Thank you for your assistance to this matter.

Very truly yours,



Kevin B. Callanan

Enclosures

PLYMOUTH, ss.

SUPERIOR COURT DEPARTMENT OF THE
TRIAL COURT OF THE COMMONWEALTH
CIVIL ACTION

NO. PLCV 2003-01319-A

Tracy A. Smith
....., Plaintiff(s)

vs.

United Rentals, Inc.
....., Defendant(s)

SUMMONS

To the above-named defendant :

You are hereby summoned and required to serve upon plaintiff attorney, whose address is 17 Accord Park Dr., Norwell, MA 02066, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Brockton either before service upon plaintiff attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff claim or you will thereafter be barred from making such claim in any other action.

Witness, SUZANNE V. DELVECCHIO Esquire, at Brockton, the 3rd day of
November, in the year of our Lord two thousand and three.

NOTES

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. To plaintiff's attorney: please circle type of action involved -- Tort -- Motor Vehicle Tort -- Contract -- Equitable Relief -- Other.

PROOF OF SERVICE OF PROCESS



Plymouth County Sheriff's Department • P.O. Box 1663 • Brockton, MA 02303 • 580-2110
Plymouth, ss.

November 20, 2003

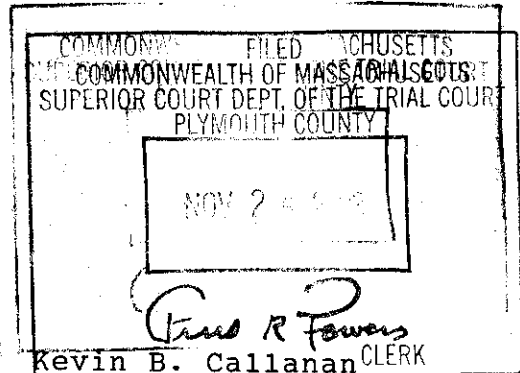
I hereby certify and return that on 11/17/03 at 03:35 pm I served a true and attested copy of the summons and complaint with civil action cover sheet in this action in the following manner: To wit, by delivering in hand to Steve McCormack, Assistant Manager, agent, person in charge at the time of service for United Rentals, Inc., at , 30 Independence Road, Kingston, MA 02364. P&H (no mailing) (\$1.00), Attest (1 copy) (\$5.00), Basic Service Fee (\$30.00), Conveyance (\$4.50), Travel (\$3.20) Total Charges \$43.70

A TRUE COPY ATTEST

Deputy Sheriff John T. LaLond

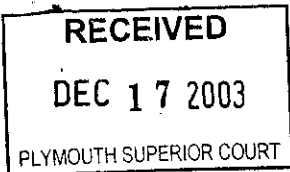
CLERK

Deputy Sheriff



NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days after service of this summons upon you. You must also file the original in the Clerk's Office at Brockton.

3



COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

**SUPERIOR COURT DEPT.
CIVIL ACTION NO. 03-1319-A**

**TRACEY A. SMITH
Plaintiff,**

v.

**UNITED RENTALS, INC.
Defendant.**

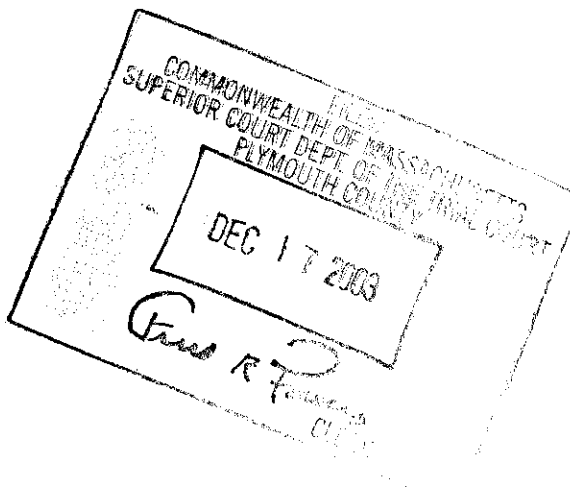
**NOTICE OF FILING NOTICE OF
REMOVAL OF ACTION TO FEDERAL COURT**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that on December 16, 2003, the Defendant United Rentals, Inc. filed in the United States District Court for the District of Massachusetts a Notice of Removal of Action to Federal Court. A true and correct copy of the Notice of Removal is attached hereto as Exhibit A.

**DEFENDANT,
UNITED RENTALS, INC.**

David B. Wilson, BBO# 548359
Al Harmon, BBO# 655832
ROBINSON & COLE LLP
One Boston Place
Boston, MA 02108-4404
(617) 557-5900



Date: December 16, 2003.

A TRUE COPY ATTEST

CLERK

CERTIFICATE OF SERVICE

I, hereby certify that on this 16th day of December, 2003, I served a true copy of the foregoing document via first-class mail, postage prepaid, upon the following:

Kevin B. Callanan
17 Accord Park Drive
Norwell, MA 02066



Al Harmon